

AO 91 (Rev. 02/09) Criminal Complaint

United States District Court

for the
Western District of New York



United States of America

v.

Case No. 23-mj-5024

MARIA D'AMATO

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

In or about June 2022, the exact dates being unknown, in the County of Erie, in the Western District of New York, the defendant, MARIA D'AMATO:

Did employ, use, persuade, induce, entice, and coerce any minor to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct knowing and having reason to know that such visual depiction would be transported using any means and facility of interstate and foreign commerce; knowing and having reason to know that such visual depiction would be transported in and affecting interstate and foreign commerce; using materials that have been mailed, shipped, and transported in and affecting interstate and foreign commerce; and the visual depiction was transported using any means facility of interstate and foreign commerce, in violation of Title 18, United States Code 2251(a).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

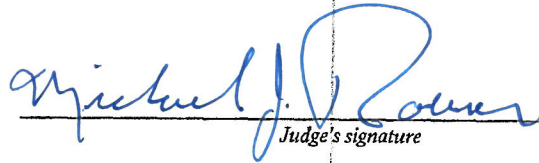
ERIC SCHMIDT, Task Force Officer, FBI

Printed name and title

Affidavit and Criminal Complaint submitted electronically. Oath administered, and contents, signature, attested to me as true and accurate telephonically pursuant to Fed.R.Crim.P. 4.1.

signature section continues below

Date: January 26, 2023



Judge's signature

City and State: Buffalo, New York

HONORABLE MICHAEL J. ROEMER
UNITED STATES MAGISTRATE JUDGE
Printed name and title

AFFIDAVIT IN SUPPORT OF COMPLAINT

I, Eric Schmidt, being duly sworn, depose and say:

1. I am a Task Force Officer of the Federal Bureau of Investigation and have been on the Child Exploitation Task Force (CETF) since April 2017. I have been employed as a police officer with the Town of Tonawanda Police Department since January 2002. As a member of the CETF, I work on cases associated with the Violent Crimes Against Children program, which targets individuals involved in the online sexual exploitation of children. As part of these duties, I have become involved in the investigation of suspected violations of Title 18, United States Code, Sections 2251, 2252, 2252A, 2422, and 2423.

2. I have also participated in various FBI mandated and volunteer training for the investigation and enforcement of federal child pornography laws in which computers and electronic media are used as the means for receiving, transmitting, and storing child pornography.

3. I make this affidavit in support of a criminal complaint charging MARIA D'AMATO (hereinafter "D'AMATO") with a violation of Title 18 U.S.C. Sections 2251(a) [production of visual depictions of a minor engaging in sexually explicit conduct].

4. The statements contained in this affidavit are based on my involvement in this investigation, as well as information provided to me by other law enforcement officers

involved in this investigation, and upon my training and experience. Because this affidavit is being submitted for the limited purpose of seeking a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that **D'AMATO** violated Title 18, United States Code, Section 2251(a).

I. FACTUAL BASIS

5. On or about June 27, 2022, your affiant learned that the Town of Tonawanda Police Department (TTPD) was investigating an incident related to the possible production of child pornography. Your affiant learned that the complainant (hereinafter PARENT), had filed a police report, alleging that **D'AMATO** had sexually assaulted their 14-year-old juvenile daughter (hereinafter VICTIM), and that they had observed images and videos of the sexual assaults on VICTIM's cellular device. PARENT stated to the reporting officer that the images and videos were originally located by VICTIM's older sister (hereinafter SISTER). SISTER became concerned and forwarded screenshots of the videos to her personal cellular device. SISTER then deleted the files from VICTIM's cellular device, and then factory reset the device. Your affiant contacted PARENT and SISTER, and requested that the videos and images be extracted from the SISTER's device.

6. Later on June 27, 2022, your affiant conducted a cellular extraction of SISTER's Apple iPhone device. Several videos and images were recovered along with screenshots of text conversations between VICTIM and **D'AMATO**. A description of the

files are as follows:

File Name:	Description:
IMG_0844	Image depicting VICTIM's vagina and legs. D'AMATO's arms are wrapped around VICTIM's legs. D'AMATO's flower tattoo is visible in the image. D'AMATO's head is down looking towards VICTIM's genital area.
IMG_0854	Image depicting VICTIM's abdomen, vagina, and thighs. D'AMATO is digitally manipulating VICTIM's vagina. D'AMATO's tattoo of a red colored car and the word "dad" are visible.

7. On July 6, 2022, VICTIM was interviewed by an FBI Child Adolescent Forensic Interviewer (hereinafter CAFI). VICTIM advised the CAFI that something happened with an older person. VICTIM then explained that she met D'AMATO through a mutual friend and the VICTIM and D'AMATO began spending time with one another, even travelling with D'AMATO while delivering food. VICTIM advised that she told D'AMATO the day they met that VICTIM was 14 years of age. VICTIM explained that she and D'AMATO were in a sexual relationship but that VICTIM felt manipulated by D'AMATO. VICTIM stated that images and videos were taken by both she and D'AMATO during their sexual contact and that both VICTIM and D'AMATO used their cellular devices, Apple iPhones, which are not manufactured in the State of New York, to take such images and videos. VICTIM also stated that she would send such images to D'AMATO via the Snapchat application.

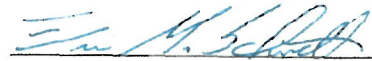
8. The CAFI described an image of child pornography to VICTIM that was located on SISTER's device. This image was forwarded from the VICTIM's phone to SISTER's phone as described above. The CAFI described the image as depicting a female's genital area and another person's arm. VICTIM confirmed that the image was of her genital area and D'AMATO's arm. VICTIM was able to identify a tattoo of a red colored vehicle in the image and confirm that D'AMATO had the same tattoo.

9. On August 19, 2022, a search warrant was executed at 97 Moulton Avenue, Town of Tonawanda, NY by the FBI-Buffalo Child Exploitation and Human Trafficking Task Force, who was looking for evidence of possession and production of child pornography. During the execution of the search warrant, D'AMATO was interviewed by FBI Task Force Officer Michael K. Hockwater and your affiant. D'AMATO advised that she was in an intimate relationship with VICTIM. D'AMATO stated that she believed victim was 18 years of age, and that she terminated the relationship once she found out VICTIM's real age. D'AMATO denied ever recording sexual contact between she and VICTIM. D'AMATO was shown three sanitized images and confirmed it was both she and VICTIM in all three images, although she claimed she was unaware of when the images were taken.

10. On December 20, 2022, VICTIM was again interviewed where she explained that the images and videos taken of VICTIM and D'AMATO's sexual contact were shared via the Snapchat application. VICTIM also explained that it may have been D'AMATO's idea to photograph the sexual contact between VICTIM and D'AMATO, but she was not

sure. However, VICTIM explained that D'AMATO was aware that the images and videos were being captured on one of two Apple iPhones owned by D'AMATO or the victim's Apple iPhone. VICTIM further explained that D'AMATO instructed VICTIM to delete the images and videos that the VICTIM and D'AMATO had produced, and that D'AMATO told VICTIM not to share them or tell anyone, due to D'AMATO's fear she may get in trouble.

11. Based on the foregoing, there is probable cause to believe that D'AMATO violated Title 18 United States Code Section 2251(a).


ERIC M. SCHMIDT
Task Force Officer
Federal Bureau of Investigation

Sworn and subscribed to before me telephonically
this 26th day of January, 2023.


HON. MICHAEL J. ROEMER
United States Magistrate Judge